

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Jimmy Smith, suing on behalf of
themselves and all others similarly situated
Anthony Palumbo, suing on behalf of
themselves and all others similarly situated
Plaintiff(s),

-against-

The NYS Department of Correctional Services,
Commissioner Brian Fischer, Department of
Correctional Services
Defendant(s).

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TO: The Attorney(s) for Plaintiff(s):

This case has been designated an electronic case and has been assigned to this court for all purposes. Counsel for all parties are required to promptly register as filing "USERS" in accordance with the procedure for Electronic Case Filing.

Counsel for all parties are hereby directed to attend a conference at the time and place fixed below, for the purpose of Case Management and scheduling pursuant to Fed. R. Civ. P. 16. You are directed to furnish all attorneys in this action with copies of this order and enclosures, and to furnish chambers with a copy of any transmittal letter(s). If you are unaware of the identity of counsel for any of the parties, you must forthwith send a copy of the notice and rules to that party personally.

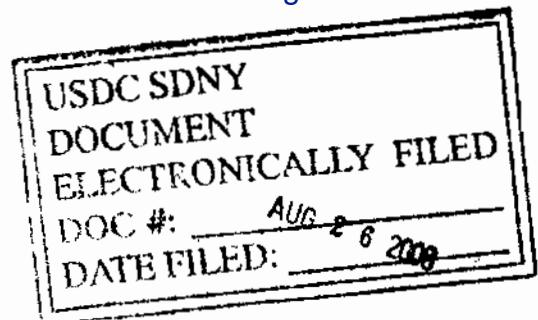
An Initial pretrial conference will be held on **Tuesday, November 25, 2008 at 9:30 a.m.** at the United States District Courthouse, 500 Pearl Street, New York, New York, Courtroom 15D.

No application for adjournment will be considered unless made within one week of the date of this application.

Enclosed is a proposed Case Management Plan and Scheduling Order, pursuant to Rules 16 and 26 (f) of the Federal Rules of Civil Procedure. Counsel for all parties are directed to confer regarding the proposed plan and order. If the proposed schedule is agreeable to all parties, counsel shall sign and file the enclosed plan and order with the Court seven (7) days before the date of the initial pretrial conference. If counsel agrees that a different plan and schedule is appropriate, counsel shall sign and file a different proposed plan and schedule for the court's consideration seven (7) days before the date of the pretrial conference. In the absence of agreement, the Court, after hearing from counsel, will order a Case Management Plan and schedule at the conference. Absent extraordinary circumstances, the Plan shall provide that the case be ready for trial within six months.

In addition to the matters covered in the Case Management Plan, counsel should also be prepared to address at the conference the factual and legal bases for their claims or defenses, any issue as to subject matter jurisdiction, and any other issue relevant to case management.

Dated: New York, New York
August 25, 2008



08cv7090(GBD)
INITIAL PRETRIAL
CONFERENCE

SO ORDERED:

George B. Daniels

GEORGE B. DANIELS
United States District Judge

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SOUTHERN DISTRICT OF NEW YORK

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Jimmy Smith, suing on behalf of
themselves and all others similarly situated
Anthony Palumbo, suing on behalf of
themselves and all others similarly situated,
Plaintiff,

-against-

The NYS Department of Correctional Services,
Commissioner Brian Fischer, Department of
Correctional Services,
Defendant,

08cv7090(GBD)
CIVIL CASE MANAGEMENT
PLAN AND SCHEDULING ORDER

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After consultation with counsel for the parties, the following Case Management Plan is adopted. This plan is also a scheduling order pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure.

1. No **additional parties** may be joined after **January 21, 2009**.
2. No **amendment** to the pleadings will be permitted after **January 21, 2009**.
3. Except for good cause shown, all **discovery** shall be commenced in time to be completed by **February 25, 2009**. The Court expects discovery to be completed within 90 days of the first scheduling conference unless, after the expiration of that 90 day period, all counsel stipulate that additional time (not to exceed 60 more days) is needed to completed discovery. In such event, discovery may be extended by the parties on consent, without application to the Court, provided the parties are certain they can still meet the discovery completion date ordered by the Court. The discovery completion date shall not be adjourned except upon a showing of extraordinary circumstances.
4. **Dispositive motions** are to served by **May 13, 2009**. Answering papers are to be served within 14 days. Reply papers are to be served within seven (7) days. In the event a dispositive motion is made, the date for submitting the Joint Pretrial Order shall be changed from that shown herein to three(3) weeks from the decision on the motion. The final pretrial conference shall be adjourned to a date four (4) weeks from the decision on the motion.
5. A final **pretrial conference** will be held on **June 10, 2009 at 9:30 a.m.**.
6. The **Joint Pretrial Order** shall be filed no later than **May 20, 2009**. The requirements for the pretrial order and other pretrial submissions shall be governed by the Court's Individual Rules of Practice.
7. **All motions and applications** shall be governed by the Court's Individual Rules of Practice.

8. The parties shall be **ready for trial** on 48 hours notice on or after **June 24, 2009**. The estimated trial time is _____ days, and this is a (jury) (non-jury) trial.
9. The **Next Case Management Conference** will be held on **April 15, 2009 at 9:30 a.m.**

Dated: August 25, 2008
New York, New York

SO ORDERED:

GEORGE B. DANIELS
United States District Judge

Attorney for Plaintiff

Attorney for Defendant